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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,019	01/16/2004	Hiroyuki Hojo	P24550.dc1.doc	5762
7055 7590 05/29/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER NGUYEN, KIEN T	
			ART UNIT 3711	PAPER NUMBER
			NOTIFICATION DATE 05/29/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/758,019

Applicant(s)

HOJO ET AL.

Examiner

Kien T. Nguyen

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-18, and 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 13-18, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi et al in view of Friedson U.S. Patent 6,332,307.

Yamaguchi disclosed a machine comprising a seat (2); a drive mechanism (16) that imparts a swinging motion to the seat; the seat has a saddle shape; an elevator (168-170) provides to adjustability to the height of the seat and repeatedly raised and lowered the seat during operation of the drive mechanism; the swinging motion comprising three degrees of freedom of movement in the form of a longitudinal reciprocating linear motion and reciprocating pivoting motions around a fore-aft (Figs. 3-5) and transverse axes (Fig. 7-8). It is noted that the machine of Yamaguchi et al failed to teach the expandable and contractible member provided on a seating surface of the seat as set forth in claims 1-12 and 19. However, Friedson disclosed a saddle assembly comprising an expandable and contractible member in a form of an air bladder (25) (see Fig. 7) providing on each side of the saddle which inherently including positions in oppose the thighs and knees of the user; and a mechanism (26) for expanding and contracting the member (see column 4, lines 64-67 and column 5, lines 1-9). Therefore, it would have been obvious to one of ordinary skill in the art to modify the machine of Yamaguchi et al by integrally adding the bladders as taught by Friedson

for the purpose of providing comfort for the user as well as enhancing the motion of the seat during operation.

Regarding the limitation "automatically" in claims 1 and 18, it is well settled that it is not an invention to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result see *In re Venner*, 120 USPQ 192 (CCPA 1958).

Response to Arguments

In response to applicant's argument concerning the combination of Yamaguchi and Friedson failed to teach a mechanism that "repeatedly" expands and contracts the expandable and contractible member as recited in claims 1 and 18, the term "repeatedly" does NOT limit as to **how or how often, and/or when** the mechanism "repeatedly" expands and contracts the member. It is submitted that the valve (26) of Friedson is conceivably capable of being repeatedly inflated (expanding) and deflated (contracting) the bladder (25). Such interpretation of Friedson clearly meets the claimed invention in the above explanation. Regarding the limitation "automatically" in claims 1 and 18, see the above explanation *In re Venner*, 120 USPQ 192 (CCPA 1958).

In response to applicant's argument that the prior art of record failed to teach the contractible member in "alternately repeating upwardly-outwardly and down-inwardly directions" as set forth in claims 1 and 18, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Kien T. Nguyen
Primary Examiner
Art Unit 3711

Ktn